IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 2085 OF 2004

The Regional Director Employees' State Insurance Corporation, Mumbai	]]]	Applicant
Versus		
1) Mrs. Jyoti S. Turakhia	]	Respondents
2) M/s Techno Engg. Co.	]	(Ori. Accused)
3) State of Maharashtra	]	Respondent

Mr. H.V. Mehta for the Applicant
Mr. S.D. Nangre with Mr. R.M. Pawar for Respondent No. 2
Mr. S.V. More, A.P.P. for the State

CORAM : ABHAY S. OKA, J.

DATE : 31ST AUGUST, 2006

P.C.

1) Heard learned Advocates appearing for the parties. This application is filed by the Applicant Employees' State Insurance Corporation for grant of leave to prefer an appeal against order of acquittal dated 12th March 2004. The offence alleged against the first Respondent was under Section 85(g) of The Employees' State Insurance Act, 1948.

2) Shri. Mehta appearing for the Applicant submitted that the offence is complete if it is shown that there is contravention or non compliance with the requirements of the said Act, or the regulations framed

under the said Act. He submitted that even after inspection, of the record taken by the Insurance Inspector under Regulation 102, a Superior Officer can exercise powers under Section 45(2) of the said Act. He submitted that the concerned documents were not made available by the first Respondent to the Superior Officers and therefore offence is established.

3) I have considered the submissions. Regulation 102 empowers certain Superior Officers of the Applicant- Corporation to exercise powers of Inspector which are specified in Sub Section 2 of Section 45 of the said Act. In the present case, P.W. 2 examined by the Applicant clearly admitted that the concerned records were already inspected by one Shri. Yadav who was the Insurance Inspector. According to the case of the Applicant, some Superior Officer was desirous of exercising the power of the Insurance Inspector which was already exercised by the concerned Inspector. If this is the factual position, the view taken by the learned Trial Judge that there was no contravention or non compliance with provisions of the said Act or the Regulation is certainly a possible view which could have been taken on the basis of evidence led by the Applicant.

4) Hence, no case is made out for grant of leave. Application is rejected. Consequently appeal stands dismissed.

(ABHAY S. OKA, J.)